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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/606,745	06/29/2000	Stephen C. Tulley	00-018	7481

22927 7590 08/04/2003

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EXAMINER

CAPRON, AARON J

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 08/04/2003

11

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/606,745

Applicant(s)

TYLLEY ET AL.

Examiner

Aaron J. Capron

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 35 is/are allowed.
- 6) ☒ Claim(s) 1-34 and 36-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This is a response to the Amendment received on May 19, 2003. Claims 1-46 are pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claim 1-7, 9-10, 12-30, 36-39, 41-43 and 45-46 are rejected under 35 U.S.C. 102(b) as being ~~clearly~~ anticipated by Manship et al. (U.S. Patent No. 5,393,061; hereafter "Manship").

Referring to claim 1, Manship discloses determining an outcome amount associated with a total number of events; and based on a parameter specified by a player, allocating the outcome amount among the total number of events, wherein the total number of events is greater than one. Manship allows for a player to play multi-line gaming machine (Figure 2), wherein the player selects by betting upon one or more lines within the multi-line game, each line having an outcome. The total amount of the outcomes, if any, are then awarded to the player.

Referring to claim 2, Manship discloses that the parameter specified by the player comprise the total number of events. Player selects which lines that he/she wants to play.

Referring to claim 3, Manship discloses that the player can select the total wager amount.

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Referring to claim 4, Manship discloses the parameter associated with the player includes player history information. Based upon how the player is doing at a gaming machine, the player has the option of continuing play, quitting play, or altering play.

Referring to claims 5-7, Manship discloses retrieving and receiving an indication of the parameter associated by the player.

Referring to claim 9, Manship discloses determining includes receiving an indication of the outcome amount.

Referring to claim 10, Manship discloses receiving the indication from the player device or a controller.

Referring to claim 12, Manship discloses retrieving the stored indication of the outcome amount.

Referring to claim 13, Manship discloses determining includes randomly generating the outcome amount.

Referring to claims 14-16, Manship discloses that allocation is performed by a controller and a player device.

Referring to claim 17, Manship discloses allocating includes selecting a subset of the total number of events and allocating the outcome amount among the subset of the total number of events.

Referring to claim 18, Manship discloses determining a plurality of event outcomes based on the outcome amount and associating each of the event outcomes with one of the total number of events.

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Referring to claim 19, Manship discloses allocating is based on a stored outcome table or random process (Figure 12, block 244 and 10:15-22).

Referring to claims 20-24, Manship discloses that determining a plurality of outcome amounts associated with a prior total number of events, the prior total number of events being different than the total number of events. In a previous game, Manship discloses that a player can chose a different amount of lines, such as one or more lines in order to win an outcome.

Referring to claims 25-26, Manship discloses an event payout amount(s) with at least one of the total number of events.

Referring to claim 27, Manship discloses at least one of the plurality of events comprises a negative amount as long as the player does not win on the wager.

Referring to claim 28, Manship discloses displaying the event payout amount to the player.

Referring to claim 29, Manship discloses arranging for the player to provide payment of an amount based on a total wager amount, revealing the event payout amount to the player, and arranging for the player to receive payment of an amount associated with the event payout amount.

Referring to claim 30, Manship discloses arranging for the player to provide payment of an amount and arranging for the player to receive payment of an amount associated with the outcome amount, wherein the outcome amount is based at least in part on the total wager amount and a random process. It is inherent to have the winning amount be based at least in part on the total wage amount.

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Claim 36-38 corresponds in scope to an apparatus set forth for use of the method listed in the claims above and is encompassed by use as set forth in the rejection above.

Claim 39 corresponds in scope to a medium storing instructions set forth for use of the method listed in the claims above and is encompassed by use as set forth in the rejection above.

Referring to claim 41, Manship discloses a method for determining an outcome amount associated with a player and based on a parameter associated with a player, allocating the outcome amount over time or a representation of space. A player can receive the coins instantly or the coins can be set up in a queue or a credit meter.

Referring to claim 42, Manship discloses arranging a player to provide a payment, transmitting an indication associated with the total wager amount to a controller, receiving an indication associated with a total payout amount from the controller, receiving from the player a total number of lottery events, based on parameter associated with the player, allocating the total payout amount among the total number of lottery events, revealing at least a portion of the total payout amount, and arranging for the player to receive the payment.

Referring to claim 43, Manship discloses a method for determining an outcome amount associated with a player and allocating the outcome amount among a total number of events.

Claims 45-46 corresponds in scope to a method of facilitating game play set forth for use of the method listed in the claims above and are encompassed by use as set forth in the rejection above.

Claims 1, 6, 8-9, 11, 33-34 and 43-44 are rejected under 35 U.S.C. 102(b) as being anticipated by Schneier et al. (U.S. Patent No. 5,871,398; hereafter "Schneier").

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Referring to claims 1 and 33, Schneier discloses determining an outcome amount associated with a total number of events (a players buys a plurality of lottery tickets and wins with one or more tickets) and based on a parameter specified by a player (number of tickets bought), allocating the total amount based upon the total number of tickets bought.

Referring to claims 6, 8-9 and 11, the players receive an indication that the player has bought the tickets and it is performed over a communication network.

Referring to claim 34, Schneier discloses a player providing a payment to play the lottery game tickets, the computer determining the total winnings, based on the number of tickets bought by the player, each ticket having their own win value, revealing to the player the total amount won for each ticket and arranging for the player to receive a payment associated with the winning amount.

Claims 43-44 correspond in scope to a method set forth for use of the method listed in the claims above and are encompassed by use as set forth in the rejection above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manship.

Referring to claims 8 and 11, Manship discloses a method of operating a game device, but does not disclose that the communication network is used to receiving an indication of the outcome amount. However, it is notoriously well known within the art of gaming machines that credit cards or smart cards can be used to debit and credit based upon wagers and winning outcomes. One would be motivated to provide the use of credit/smart cards in order to provide convenience for a player that does not want to carry money around. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate credit card machines into the gaming device of Manship in order to provide convenience to a player.

Claim 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manship in view of Celona (U.S. Patent No. 5,564,700).

Referring to claim 31, Manship discloses a method of operating a game device that has progressive features (claim 8), but does not disclose re-allocating the outcome amount among the total number of events. However, Celona discloses dispersing a proportional payout method for

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progressive linked gaming machines where the winnings are reallocated amongst a plurality of players each playing a gaming machine with multiple events capabilities in order to provide additional winnings to the participating players. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate re-allocating a payout into the game device of Manship in order to provide additional winnings to players.

Allowable Subject Matter

Claim 35 is allowed.

Response to Arguments

Applicant's arguments with respect to claims 1-46 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron J. Capron whose telephone number is (703) 305-3520. The examiner can normally be reached on M-Th 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

ajc
July 31, 2003



MARK SAGER
PRIMARY EXAMINER